



September 27, 2007

EX PARTE COMMUNICATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte Communication* in IB Docket No. 06-123

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, EchoStar Satellite L.L.C. hereby submits this letter summarizing an *ex parte* communication today in the above-referenced docket. On September 27, 2007, Linda Kinney of EchoStar had a phone conversation with Helen Domenici and Robert Nelson, both of the International Bureau, regarding the Reverse Band proceeding.

Specifically, EchoStar emphasized that licensees should be permitted to operate permanently at full power and full interference protection at off-slot orbital locations up to one degree from their designated orbital location, provided that the adjacent slot is vacant or becomes vacant in the future. The need for flexibility to operate off slot was already anticipated by the Commission in its May Order, which states that satellites are not required "to be located precisely at the orbital locations specified in Appendix F."¹ As EchoStar has pointed out, however, the temporary authority to operate off slot is of little practical use, because the operator would have to tolerate unacceptable levels of interference – which will likely result in harm to consumers – once a neighbor arrives.

In order to reduce harm to consumers, EchoStar proposed that operators be permitted to operate at an off-slot location permanently with interference protection.² Further, to maximize use of the band and preserve the largest number of slots for new entrants, EchoStar proposed that off-slot operations be limited to one degree. This is consistent with the record in this proceeding, which includes various caps for "off slot" operations

¹ See *The Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3-17.7 GHz Frequency Band and at the 17.7-17.8 GHz Frequency Band Internationally, and at the 24.75-25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3-17.8 GHz Frequency Band*, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-76 at (May 4, 2007) ("May Order").

² See *Ex Parte Presentation of EchoStar Satellite L.L.C.*, IB Docket No. 06-123, at 3 (May 25, 2007).



ranging from .5 degrees to 1.5 degrees.³ A cap of one-degree also serves the public interest, because it provides all operators with the flexibility to collocate facilities or maneuver around satellites with ITU priority. Under this approach, applicants may of course request authorization to operate less than one-degree off slot. For example, EchoStar has existing operations at the 110° WL orbital location, so it may not need to operate at a full one-degree off of the nearest designated slot, which is 111° WL. With respect to operations at the 61.5° WL, however, the full one-degree of flexibility would be required to get close enough to collocate with existing operations, because the designated slot is at 63° WL. A bright-line rule that allows up to one degree of flexibility is also superior to a waiver process, because it provides potential licensees with the certainty needed to develop a business plan and secure financing. A waiver process would also add an unnecessary administrative burden, and delay submission of the exact orbital location to the ITU, which is required in order to secure a place in the international queue.

EchoStar also argued that prompt action by the Commission is especially necessary under these unique circumstances in order to begin the licensing process at the earliest possible date. Since the Commission released its order in May, at least seven other foreign operators have submitted applications for ITU priority. These foreign operators will now have priority over US operators, who will be required to coordinate operations. Moreover, given the fast-approaching digital transition in 2009, allocating these frequencies for the provision of HD services is essential and will help to ensure that DBS operators can continue to provide important competition to incumbent cable providers and telcos offering video service. Thus, time is of the essence. The Commission should make every effort to resolve these issues and move forward with bringing this spectrum into productive commercial use.

Respectfully submitted,

/s/ Linda Kinney

Linda Kinney

VP Law and Regulation, EchoStar Satellite L.L.C.

cc: Helen Domenici
Robert Nelson
Aaron Goldberger
Bruce Gottlieb
Renee Crittendon
Angela Giancarlo
Wayne Leighton

³ See Ex Parte Presentation of EchoStar Satellite L.L.C. (April 30, 2007); Joint Proposal of DIRECTV, EchoStar, and Intelsat, IB Docket No. 06-123 (Mar. 15, 2007) ("Joint Proposal"); Ex Parte Presentation of Telesat (September 12, 2007).